

DRAFT**Unreliable Contractors, Subcontractors, Grantees or Borrowers**

June 2, 1998

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Chapter 1. General Provisions**Article 5. Unreliable Contractors, Subcontractors, Borrowers or Grantees****Section 17050. Grounds for Placement on Unreliable List**

The following are grounds for a finding that a contractor, subcontractor, grantee or borrower is unreliable and should be placed on the board's Unreliable Contractor, Subcontractor, Grantee or Borrower List ("Unreliable List"):

- (a) Investigation for alleged fraudulent claims or reporting to the board, resulting in the disallowance of any and/or all claim(s) to the board or a finding that the person or entity investigated did not comply with provisions in the applicable agreement; or
- (b) Default on a board loan, as evidenced by written notice from board staff provided to the borrower of the default; or
- (c) Foreclosure upon real property loan collateral or repossession of personal property loan collateral by the board; or
- (d) Breach of the terms and conditions of a previous board contract, subcontract, grant, or loan, resulting in termination of the board contract, subcontract, grant or loan by the board or prime contractor;
- (e) Filing voluntary or involuntary bankruptcy, where there is a finding based on substantial evidence, that the bankruptcy interfered with the board contract, subcontract, grant or loan; or
- (f) Conviction of a misdemeanor or felony, where there is a finding based on substantial evidence, that the crime interfered with the board contract, subcontract, grant or loan; or
- (g) Current violation of any board statute or regulation, with the exception of the grants awarded pursuant to Public Resources Code section 48690, and with the exception that the contract, subcontract, grant or loan is for the purpose of resolving the violation; or
- (h) Determination by the Attorney General of a violation of the False Claims Act, Government Code section 12650 et. seq., with or without the filing of a civil action; or
- (i) The person or entity is on the list of unreliable persons or entities, or similar list, of any other governmental entity; or

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(j) Any other ground for disqualification in award or approval of a contract, subcontract, grant or loan as provided in existing state law.

NOTE: Authority Cited: Section 40502 Public Resources Code. Reference: Sections 40505, 42010, 42846, 42872, 43230, 47200, 48021, 48690 Public Resources Code.

Section 17051. Board Agreement for Contract, Grant or Loan

The board shall not award a contract or grant, or approve a loan if the applicant is on the Unreliable List, for up to three years from the date of placement on the Unreliable List. The following applicants for a contract, grant or loan are ineligible for up to a three-year term:

(a) Any person or entity that previously entered into an agreement for a board contract, subcontract, grant or loan, if in connection with the previous agreement, the person or entity was placed on the Unreliable List; or

(b) Any entity whose ownership includes a person or entity who owns 20% or more of an entity that previously entered into an agreement for a board contract, subcontract, grant or loan, if in connection with the previous agreement, the person or entity was placed on the Unreliable List; or

(c) Any entity whose ownership includes person(s) in key management positions that had significant control over an entity that previously entered into an agreement for a board contract, subcontract, grant or loan, if in connection with the previous agreement, the entity was placed on the Unreliable List.

NOTE: Authority Cited: Section 40502 Public Resources Code. Reference: Sections 40505, 42010, 42846, 42872, 43230, 47200, 48021, 48690 Public Resources Code.

Section 17052. Board Agreement for Contract, Grant or Loan with Proposed Subcontractor

The board shall not award a contract or grant or approve a loan with any person or entity who has proposed to enter into a subcontract with a person or entity on the Unreliable List for up to three years from the date of placement on the Unreliable List.

NOTE: Authority Cited: Section 40502 Public Resources Code. Reference: Sections 40505, 42010, 42846, 42872, 43230, 47200, 48021, 48690 Public Resources Code.

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Section 17053. Board Subcontractors

The board shall not give approval for a contractor, grantee or borrower to enter into a subcontract with a person or entity on the Unreliable List for up to three years from the date of placement on the Unreliable List.

NOTE: Authority Cited: Section 40502 Public Resources Code. Reference: Sections 40505, 42010, 42846, 42872, 43230, 47200, 48021, 48690 Public Resources Code.

Section 17054. Executive Director Finding

The Executive Director may make a proposed finding of unreliability based on the occurrence of any event in Section 17050. The proposed finding may be made at any time after Board staff discover and confirm that one or more of the events in Section 17050 have occurred, not to exceed three years from the date a board contract, subcontract, grant or loan agreement terminated, or a loan obligation is satisfied. After the Executive Director has made a proposed finding of unreliability, the Executive Director shall notify the person or entity of the proposed finding by certified or registered mail.

NOTE: Authority Cited: Section 40502 Public Resources Code. Reference: Sections 40505, 42010, 42846, 42872, 43230, 47200, 48021, 48690 Public Resources Code.

Section 17055. Appeal to Board

A person or entity who wishes to appeal the Executive Director's proposed finding of unreliability may, within 15 days from the date notification was sent, submit to the Executive Director a written request for an appeal hearing before the board. The request shall state the grounds on which appeal is requested, including the factual and legal argument and supporting authorities.

NOTE: Authority Cited: Section 40502 Public Resources Code. Reference: Sections 40505, 42010, 42846, 42872, 43230, 47200, 48021, 48690 Public Resources Code.

Section 17056. Final Finding

(a) If the Executive Director does not receive a request for appeal within 15 days from the date notice of the proposed finding was sent, the finding shall become final, and the person or entity shall be added to the Unreliable List.

(b) If a person or entity appeals the proposed finding, but withdraws the appeal or fails to attend the scheduled hearing, the proposed finding shall become final upon

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withdrawal of the appeal or failure to attend the hearing, and the person or entity shall be added to the Unreliable List.

(c) If a person or entity appeals the proposed finding of unreliability and the board upholds the Executive Director's finding, the proposed finding shall become final and the person or entity shall be added to the Unreliable List.

NOTE: Authority Cited: Section 40502 Public Resources Code. Reference: Sections 40505, 42010, 42846, 42872, 43230, 47200, 48021, 48690 Public Resources Code.

Section 17057. Hearing

The appeal to the board will be heard at a board meeting according to the following guidelines. The board has the right to augment these guidelines with specific time frames and procedures to fit within the board's agenda deadlines and meeting format.

(a) The board shall schedule a hearing within 60 days from the appellant's request for hearing.

(b) Prior to the hearing, board staff will inform appellant of the date for the hearing and provide a copy of the agenda item. The appellant's request for appeal will be included in the agenda item. Appellant may submit additional information for consideration at the board meeting.

(c) The hearing need not be conducted according to the technical rules relating to civil procedure, evidence and witnesses which would apply in a court of law.

(d) The hearing shall not be governed by the Administrative Procedure Act, Government Code sections 11340 et. seq.

(e) The Chairman of the Board may limit evidence and presentations to the issues relevant to the appeal.

(f) There may be a presentation by board staff and/or attorneys and a presentation by appellant and/or its attorneys.

(g) Oral testimony offered by any witness shall be under oath.

(h) The attorneys for the board and appellant shall not cross examine each other's witnesses.

(i) Rebuttal testimony may be offered.

(j) The standard of review for the board to overturn the Executive Director's decision is if there is evidence of mitigating factors that would show that despite the proposed finding of unreliability, the appellant is in fact reliable.

(k) Examples of mitigating factors include without limitation: all of the appellant's corporate officers were replaced after the proposed finding of unreliability was

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made, or, the appellant pursued criminal action against the party responsible for the problem that led to the proposed finding of unreliability.

(l) The board shall vote to uphold or overturn the proposed finding of unreliability made by the Executive Director. A vote to uphold the finding means that the appellant will be added to the Unreliable List for up to three years from the date of the board meeting. A vote to overturn the Executive Director's finding means that the appellant will not be added to the Unreliable List. In the case of a tie vote, the appellant shall not be added to the Unreliable List.

NOTE: Authority Cited: Section 40502 Public Resources Code. Reference: Sections 40505, 42010, 42846, 42872, 43230, 47200, 48021, 48690 Public Resources Code.

Section 17058. Reconsideration of Placement on Unreliable List

At any time after eighteen months and prior to three years since placement on the Unreliable List, a person or entity may submit a written request to the Executive Director requesting that the final finding of unreliability be vacated. This request may be submitted once only during the three year term of the Unreliable List. The Executive Director will reconsider the finding of unreliability based on the evidence submitted in the request. If the Executive Director finds that there is sufficient evidence to deem the person or entity reliable, they will be removed from the list. If there is not sufficient evidence to deem the person or entity reliable, then placement on the Unreliable List remains to the end of the three-year term.

NOTE: Authority Cited: Section 40502 Public Resources Code. Reference: Sections 40505, 42010, 42846, 42872, 43230, 47200, 48021, 48690 Public Resources Code.

Section 17059. Pending Award

When an appeal hearing has been requested, if there is a pending award or approval of a contract, subcontract, grant or loan, and if appellant can show that it is otherwise entitled to the award or approval, the agreement shall not be awarded or approved until such time as the appeal has been heard and the proposed finding of unreliability has become final or vacated.

NOTE: Authority Cited: Section 40502 Public Resources Code. Reference: Sections 40505, 42010, 42846, 42872, 43230, 47200, 48021, 48690 Public Resources Code.

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Section 17060. Affidavit

All applicants for board contracts, subcontracts, grants and loans must submit to the board or prime contractor an affidavit under penalty of perjury stating that none of the events in Section 17050 have occurred with respect to the applicant within the preceding three years.

NOTE: Authority Cited: Section 40502 Public Resources Code. Reference: Sections 40505, 42010, 42846, 42872, 43230, 47200, 48021, 48690 Public Resources Code.

Section 17061. Confidentiality

Information regarding the investigation of a person or entity's reliability, proposed or final finding of unreliability, the names on the Unreliable List and any documents regarding these issues are confidential and shall not be public records, except for information released as part of the agenda item for an appeal hearing.

NOTE: Authority Cited: Section 40502 Public Resources Code. Reference: Sections 40505, 42010, 42846, 42872, 43230, 47200, 48021, 48690 Public Resources Code; Section 6255 Government Code.

Section 17062. Existing Law

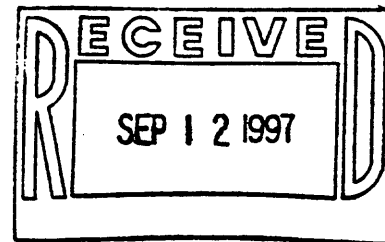
By adopting the regulations in this Article, the board does not limit its rights under existing law to refuse to enter into agreements with unreliable persons or entities.

NOTE: Authority Cited: Section 40502 Public Resources Code. Reference: Sections 40505, 42010, 42846, 42872, 43230, 47200, 48021, 48690 Public Resources Code.



COUNTY OF LOS ANGELES
DEPARTMENT OF PUBLIC WORKS

900 SOUTH FREMONT AVENUE
ALHAMBRA, CALIFORNIA 91803-1331
Telephone: (626) 458-5100



HARRY W. STONE, Director

September 10, 1997

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

IN REPLY PLEASE
REFER TO FILE ME-2

Mr. Nathan Gauff
Contract Manager
Waste Prevention and Market Development
California Environmental Protection Agency
Integrated Waste Management Board (CIWMB)
8800 Cal Center Drive
Sacramento, CA 95826

Dear Mr. Gauff:

RUBBERIZED ASPHALT CONCRETE TECHNOLOGY CENTER
AUGUST 1997 STATUS REPORT

The August 7, 1997 letters (copies enclosed) were sent to the Public Works agencies attendees of the CIWMB May 1997 Workshops. Response has been somewhat disappointing with only three return calls:

Ms. Beth Eckl of the Alameda County CSA contacted me. She is very interested in a meeting to discuss ideas on how to reduce the cost of rubberized asphalt concrete and its noise reducing benefits. I have tentatively scheduled a meeting with her and her public works staff for late September, 1997.

Mr. Brian Mathews of the Alameda County Waste Management Authority is setting up a Rubberized Asphalt Concrete (RAC)/Recycled Asphalt Pavement (RAP) workshop on November 5, 1997. I will do the session on RAC, Jack Van Kirk is scheduled to do the RAP session. Other speakers are also scheduled.

I will meet with Ms. Laura Breen of the Sacramento County Department of Regional Parks, Recreation, and Open Space on September 22, 1997 to discuss their plans for a two-mile resurfacing/widening project on the American River Trail.

Ms. Donna Carlson of the Rubber Pavement Association (RPA) has offered to set up three workshops. She will send her proposal outlining what RPA will do and the costs involved to the Technology Center.

Mr. Butch Britt of the County of Ventura advised that they have a \$2.2 million rubberized asphalt concrete resurfacing project under way. This is their first rubber project but they are familiar with the use of RAC and do not anticipate any problems.

I provided information about the Technology Center to Mr. Miles Moore for an article in the next Washington Tire Report. 1-6

Mr. Nathan Gauff
September 10, 1997
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Ms. Kathi Delegal is now assisting me with the development of the Internet Web Site, brochures, informational releases and conferences.

I have made arrangements to attend the following conferences:


- University of California, ITS seminar
Anaheim, California
October 2 and 3, 1997.
Brochures will be distributed.
- California League of Cities 99th Annual
Conference/Exposition
San Francisco, California
October 12 - 14, 1997
Brochures will be distributed. The Technology Center
will have a display booth if a booth becomes available.
- CSAC 103rd Annual Meeting/Trade Show
San Francisco, California
November 18 - 21, 1997
The Technology Center will have a display booth.

Also enclosed for your information are the Assistance Records and copies of correspondence for August 1997.

If you have any questions regarding this matter, please contact me at 1-888-777-4775.

Very truly yours,

HARRY W. STONE
Director of Public Works


LYNN D. NICHOLSON
Program Director
Rubberized Asphalt Concrete Technology Center

DOC:TT49

Enc.



HARRY W. STONE, Director

COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

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Telephone: (626) 458-5100

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

October 7, 1997

IN REPLY PLEASE
REFER TO FILE ME-2

Mr. Nathan Gauff
Contract Manager
Waste Prevention and Market Development
California Environmental Protection Agency
Integrated Waste Management Board(CIWMB)
8800 Cal Center Drive
Sacramento, CA 95826

Dear Mr. Gauff:

RUBBERIZED ASPHALT CONCRETE TECHNOLOGY CENTER SEPTEMBER 1997 STATUS REPORT

Our work during September 1997 consisted primarily of developing the enclosed brochure and preparing for the UC Berkeley, ITS Symposium in Anaheim on October 2 and 3, 1997; the League of Cities 99th Annual Conference/Exposition in San Francisco on October 12 through 14, 1997; the September 30 and the November 5, 1997 Alameda County workshops; and the CSAC 103rd Annual Meeting/Trade Show in San Francisco on November 18 through 20, 1997. We will have a display booth at the League of Cities and CSAC conferences. I will give a short presentation at the CSAC General Meeting on November 20, 1997.

I am very pleased with the progress the Technology Center has made in spreading the word about the benefits of using RAC. The September 22, 1997 meeting with Sacramento County Parks was very productive. The mini-workshop for the Alameda County GSA on September 30, 1997 went very well as did the ITS Symposium in Anaheim (See enclosed summaries).

Mr. Nathan Gauff
October 7, 1997
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Enclosed for your information are the Assistance Records and copies of correspondence for September 1997. Also included is a proposal by the Rubber Pavement Association for three workshops which I am evaluating. I would appreciate your comments on this proposal.

If you have any questions regarding this matter, please contact me at 1-888-777-4775.

Very truly yours,

HARRY W. STONE
Director of Public Works



LYNN D. NICHOLSON
Program Director
Rubberized Asphalt Concrete Technology Center

LDN:ldr/DOC:TT87

Enc.



COUNTY OF LOS ANGELES
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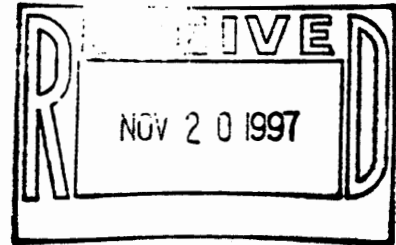
HARRY W. STONE, Director

November 13, 1997

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

Mr. Nathan Gauff
Contract Manager
Waste Prevention and Market Development
California Environmental Protection Agency
Integrated Waste Management Board (CIWMB)
8800 Cal Center Drive
Sacramento, CA 95826

IN REPLY PLEASE
REFER TO FILE ME-2



Dear Mr. Gauff:

RUBBERIZED ASPHALT CONCRETE TECHNOLOGY CENTER
OCTOBER 1997 STATUS REPORT

October 1997 was a busy month for Kathi Delegal and I. As reported last month we attended the U.C. Berkeley, ITS Symposium in Anaheim, California on October 2 and 3. Brochures describing the role of the Center and the benefits of using crumb rubber were distributed to over 150 attendees.

October 12-14, 1997 we participated in the League of California Cities 99th Annual Conference/Exposition at the Moscone Center in San Francisco. We talked with over 150 City delegates that stopped by our booth and distributed over 400 brochures to council members and staff. Our display received a lot of interest.

There are two major events scheduled for November 1997. On November 5 we will participate in a rubberized asphalt concrete workshop sponsored by the Alameda County Waste Management Authority. On November 18-20 we will have a booth at the California State Association of Counties 103rd Annual Conference and I am scheduled to give a brief presentation at the General Session.

I am looking forward to meeting with you and the Board members on December 2, 1997 to update the Board on the accomplishments of the Center and to discuss additional funding for Fiscal Year 1997-98.

Enclosed for your information are the Assistance Records and copies of correspondence for October 1997.

If you have any questions regarding this matter, please contact me at 1-888-777-4775.

Very truly yours,

HARRY W. STONE
Director of Public Works

Lynn D. Nicholson
LYNN D. NICHOLSON
Program Director
Rubberized Asphalt Concrete Technology Center

LDN:ldr
DOC:TT110

Enc.



COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

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HARRY W. STONE, Director

ADDRESS ALL CORRESPONDENCE TO:
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ALHAMBRA, CALIFORNIA 91802-1460

December 16, 1997

Mr. Nathan Gauff
Contract Manager
Waste Prevention and Market Development
California Environmental Protection Agency
Integrated Waste Management Board (CIWMB)
8800 Cal Center Drive
Sacramento, CA 95826

IN REPLY PLEASE
REFER TO FILE: ME-2

Dear Mr. Gauff:

RUBBERIZED ASPHALT CONCRETE TECHNOLOGY CENTER NOVEMBER 1997 STATUS REPORT

As I mentioned in last month's report, we participated in two major events in November. On November 5, 1997 Kathi and I attended a workshop sponsored by Mr. Brian Mathews of the Alameda County Waste Management Authority. Approximately 120 city and county Public Works personnel were present. Presentations were made by Donna Carlson of the Rubber Pavements Association, Jack Van Kirk, formerly of Caltrans, Ross Kashiwagi of Granite Construction and myself. The workshop was well received by the attendees.

On November 18-20, 1997, we had a booth display at the California State Association of Counties (CSAC) conference in Burlingame, California. The conference was attended by 475 County Officials. We distributed over 250 brochures to County Officials that visited our booth. On November 20, 1997 I made a presentation to the County Engineers Association of California at their annual meeting.

We also mailed brochures to over 600 City Engineers and Directors of Public Works. To date we have received business reply cards from approximately 20 percent of the cities requesting additional information.

I am looking forward to meeting with you and Ms. Martha Gildart on January 7, 1998 to discuss our presentation to the Policy Committee on February 10, 1998.

Enclosed for your information are the Assistance Records and copies of correspondence for November 1997.

If you have any questions regarding this matter, please contact me at 1-888-777-4775.

Very truly yours,

HARRY W. STONE
Director of Public Works


LYNN D. NICHOLSON
Program Director
Rubberized Asphalt Concrete Technology Center

LDN:ldr/DOC:TT137

Enc.

cc: Ms. Martha C. Gildart